

7A Am. Jur. 2d Automobiles § 20

American Jurisprudence, Second Edition | November 2021 Update

Automobiles and Highway Traffic

Barbara J. Van Arsdale, J.D.; Keith A. Braswell, J.D., of the staff of the National Legal Research Group, Inc.; George Blum, J.D.; John Bourdeau, J.D.; Paul M. Coltoff, J.D.; John A. Gebauer, J.D.; Noah J. Gordon, J.D.; Mary Babb Morris, J.D., of the staff of the National Legal Research Group, Inc.; Karl Oakes, J.D.; and Eric C. Surette, J.D.

I. In General

C. Regulation, in General

2. Who May Regulate Motor Vehicles

§ 20. Municipal or local regulation

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Automobiles](#) 5(1), 9

Although a city's authority to regulate traffic in some jurisdictions comes from the state constitution,¹ unless expressly provided by the legislature, a city has no authority over vehicular traffic control.² However, the police power of the state to regulate and control the use of its highways may be delegated to municipalities for exercise by them in the interest of public safety and the promotion of the general welfare.³ In this connection, a municipality's power to regulate traffic on a public street is an exercise of police power delegated from the state.⁴ For example, local authorities are permitted to place and maintain traffic control devices upon highways under their jurisdictions.⁵ A city may not attempt to regulate beyond its jurisdiction.⁶ State statutes may place the responsibility of regulating traffic traveling on state highways squarely on state and local government actors.⁷

A county or municipality may regulate in an area such as traffic whenever its regulation is not in conflict with the general laws of the state.⁸ The grant of authority to a local government to regulate traffic is not exclusive and will not preclude state law.⁹ Moreover, a state may withdraw its delegation of authority to a city to regulate traffic.¹⁰

Observation:

Pursuant to its authority to limit traffic, a city may close a road to vehicular traffic.¹¹

By the enactment of a general law covering a specific phase of motor vehicle regulation, the state may impliedly deprive local authorities of the power to pass ordinances which would be inconsistent with such law.¹² However, simply because a state undertakes to impose certain regulations applicable to the entire state, a municipality is not necessarily deprived of the power of imposing other regulations adapted to its own peculiar conditions, if these are not inconsistent with those of a general character prescribed for the entire state.¹³ Moreover, a state statute may expressly give a city authority to regulate in a certain area and indicate that the city's regulatory authority supersedes any inconsistent state law provisions.¹⁴

While the regulation of traffic upon a public street is of special interest to the people of a municipality, it does not follow that such regulation is a municipal affair, and if there is a doubt as to whether or not such regulation is a municipal affair, that doubt must be resolved in favor of the legislative authority of the state.¹⁵

© 2021 Thomson Reuters. 33-34B © 2021 Thomson Reuters/RIA. No Claim to Orig. U.S. Govt. Works. All rights reserved.

Footnotes

- 1 Cleveland v. Martinez, 126 Ohio Misc. 2d 36, 2003-Ohio-7046, 801 N.E.2d 938 (Mun. Ct. 2003).
- 2 Homes on Wheels v. City of Santa Barbara, 119 Cal. App. 4th 1173, 15 Cal. Rptr. 3d 132 (2d Dist. 2004); Hall v. State, 2009 OK CR 28, 221 P.3d 130 (Okla. Crim. App. 2009).
- 3 Transus, Inc. v. City of Dothan, 497 So. 2d 179 (Ala. Civ. App. 1986); City of Cedar Rapids v. State, 478 N.W.2d 602 (Iowa 1991); Damon v. City of Kansas City, 419 S.W.3d 162 (Mo. Ct. App. W.D. 2013); State v. Parker, 68 Ohio St. 3d 283, 1994-Ohio-93, 626 N.E.2d 106 (1994); Town of East Troy v. A-1 Service Co., Inc., 196 Wis. 2d 120, 537 N.W.2d 126 (Ct. App. 1995).
- 4 Teeter v. City of Edmond, 2004 OK 5, 85 P.3d 817 (Okla. 2004).
- 5 State v. Lee, 265 Neb. 663, 658 N.W.2d 669 (2003).
- 6 City of East Lansing v. Yocca, 142 Mich. App. 491, 369 N.W.2d 918 (1985).
- 7 Packard v. Darveau, 759 F.3d 897 (8th Cir. 2014) (applying Nebraska law).
- 8 People ex rel. Ryan v. Village of Hanover Park, 311 Ill. App. 3d 515, 243 Ill. Dec. 823, 724 N.E.2d 132 (1st Dist. 1999); Edwards v. City of Ellisville, 426 S.W.3d 644 (Mo. Ct. App. E.D. 2013); Ballard v. City of Creve Coeur, 419 S.W.3d 109 (Mo. Ct. App. E.D. 2013); State ex rel. Scott v. Cleveland, 166 Ohio App. 3d 293, 2006-Ohio-2062, 850 N.E.2d 747 (8th Dist. Cuyahoga County 2006), judgment aff'd, 112 Ohio St. 3d 324, 2006-Ohio-6573, 859 N.E.2d 923 (2006); State v. Greene, 97 Wash. App. 473, 983 P.2d 1190 (Div. 1 1999).
- 9 People v. Murphy, 169 Misc. 2d 357, 649 N.Y.S.2d 962 (App. Term 1996).
- 10 Trailways, Inc. v. City of Atlantic City, 179 N.J. Super. 258, 431 A.2d 191 (Law Div. 1980).
- 11 Christensen v. City of Pocatello, 142 Idaho 132, 124 P.3d 1008 (2005) (authority to open road for use by only pedestrians and bicyclists).
- 12 Brazier v. City of Philadelphia, 215 Pa. 297, 64 A. 508 (1906).
- 13 City of Tell City v. Noble, 489 N.E.2d 958 (Ind. Ct. App. 1986); Mahoney v. Maxfield, 102 Minn. 377, 113 N.W. 904 (1907); Brazier v. City of Philadelphia, 215 Pa. 297, 64 A. 508 (1906).
- 14 Corona Ready Mix, Inc. v. State Dept. of Motor Vehicles Traffic Violations Bureau Appeals Bd., 226 A.D.2d 630, 641 N.Y.S.2d 128 (2d Dep't 1996) (weight restrictions); Burke v. Santoro, 172 A.D.2d 579, 568 N.Y.S.2d 144 (2d Dep't 1991) (pedestrian traffic).
- 15 Zack's, Inc. v. City of Sausalito, 165 Cal. App. 4th 1163, 81 Cal. Rptr. 3d 797 (1st Dist. 2008).

End of Document

© 2022 Thomson Reuters. No claim to original U.S. Government Works.